

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1026 Session of 2005

INTRODUCED BY GREENLEAF, COSTA, RAFFERTY, LEMMOND, BOSCOLA, BROWNE, FONTANA, C. WILLIAMS, REGOLA, STACK, PILEGGI AND KASUNIC, NOVEMBER 22, 2005

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MAY 2, 2006

AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <—
2 ~~Consolidated Statutes, providing for offense of failure to~~
3 ~~report serious violent or sexual crimes against children.~~

4 AMENDING TITLE 23 (DOMESTIC RELATIONS) OF THE PENNSYLVANIA <—
5 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR THE DEFINITION
6 OF "SEXUAL ABUSE OR EXPLOITATION," FOR PERSONS TO REPORT
7 SUSPECTED CHILD ABUSE, FOR IMMUNITY FROM LIABILITY AND FOR
8 REFERRAL FOR INVESTIGATIONS.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ <—
12 ~~Statutes is amended by adding a section to read:~~

13 ~~§ 5106.1. Failure to report serious violent or sexual crimes~~
14 ~~against children.~~

15 ~~(a) Offense defined. A person enumerated in subsection (c)~~
16 ~~commits an offense if the person willfully fails to report~~
17 ~~within 72 hours by telephone or in writing to a criminal law~~
18 ~~enforcement authority when the person knows or has reasonable~~
19 ~~cause to suspect that a serious violent or sexual crime against~~
20 ~~children as defined in subsection (d) has been committed against~~

1 ~~a child under the care, supervision, guidance or training of the~~
2 ~~person or an agency, institution, organization or other entity~~
3 ~~with which the person is affiliated, whether the suspected crime~~
4 ~~occurred within this Commonwealth or not.~~

5 ~~(b) Privileges. The privilege for communications between~~
6 ~~any professional person required to report and the patient or~~
7 ~~client of that person shall not apply to situations involving~~
8 ~~serious violent or sexual crimes against children unless:~~

9 ~~(1) the confidential communication is made by the~~
10 ~~perpetrator of a serious violent or sexual crime against~~
11 ~~children to an ordained member of the clergy which is~~
12 ~~protected by 42 Pa.C.S. § 5943 (relating to confidential~~
13 ~~communications to clergymen); or~~

14 ~~(2) the confidential communication is made by the victim~~
15 ~~of a serious violent or sexual crime against children to a~~
16 ~~sexual assault counselor, as defined by 42 Pa.C.S. § 5945.1~~
17 ~~(relating to confidential communications with sexual assault~~
18 ~~counselors).~~

19 ~~(c) Mandatory reporters.~~

20 ~~(1) Persons engaged in professions with a significantly~~
21 ~~greater likelihood of discovering serious violent or sexual~~
22 ~~crimes against children due to medical, professional or other~~
23 ~~training or experience are mandatory reporters under this~~
24 ~~section. Such mandatory reporters include, but are not~~
25 ~~limited to, any licensed physician, osteopath, medical~~
26 ~~examiner, coroner, funeral director, dentist, optometrist,~~
27 ~~chiropractor, podiatrist, intern, registered nurse, licensed~~
28 ~~practical nurse, hospital personnel engaged in the admission,~~
29 ~~examination care or treatment of persons, Christian Science~~
30 ~~practitioner, member of the clergy, school administrator,~~

1 ~~school teacher, school counselor, school nurse, social~~
2 ~~service worker, day care center worker, or any other child-~~
3 ~~care or foster care worker, mental health professional, peace~~
4 ~~officer or law enforcement official.~~

5 ~~(2) Persons who voluntarily provide care, supervision,~~
6 ~~guidance or training to children through athletic,~~
7 ~~recreational or social organizations are also mandatory~~
8 ~~reporters under this section.~~

9 ~~(d) Serious violent or sexual crimes against children. For~~
10 ~~purposes of this section, the phrase "crime against children"~~
11 ~~means an offense committed against a minor under 18 years of age~~
12 ~~that causes or attempts to cause serious bodily injury or is~~
13 ~~defined by one of the following provisions of this title:~~

14 ~~Section 1102(c) (relating to attempt, solicitation and~~
15 ~~conspiracy to commit murder or murder of an unborn child).~~

16 ~~Section 2502 (relating to murder).~~

17 ~~Section 2503 (relating to voluntary manslaughter).~~

18 ~~Section 2702(a)(4) (relating to aggravated assault).~~

19 ~~Section 2901 (relating to kidnapping).~~

20 ~~Section 3121 (relating to rape).~~

21 ~~Section 3122.1 (relating to statutory sexual assault).~~

22 ~~Section 3123 (relating to involuntary deviate sexual~~
23 ~~intercourse).~~

24 ~~Section 3124.1 (relating to sexual assault).~~

25 ~~Section 3125 (relating to aggravated indecent assault).~~

26 ~~Section 3126 (relating to indecent assault) where there~~
27 ~~appears to be a course of conduct of indecent assault by the~~
28 ~~perpetrator.~~

29 ~~Section 4304 (relating to endangering welfare of~~
30 ~~children) where the offense constitutes sexual abuse or~~

~~exploitation as set forth in 23 Pa.C.S. § 6303 (relating to definitions) and there appears to be a course of conduct of endangering welfare of children by the person.~~

~~Section 6301 (relating to corruption of minors) where the offense constitutes sexual abuse or exploitation as set forth in 23 Pa.C.S. § 6303 and there has been a course of conduct of corruption of minors by the person.~~

~~Section 6320 (relating to sexual exploitation of children).~~

~~(c) Grading.—~~

~~(1) A violation of this section by a professional mandated reporter as defined in subsection (c)(1) constitutes a misdemeanor of the second degree.~~

~~(2) A violation of this section by a volunteer mandated reporter as defined in subsection (c)(2) constitutes a summary offense.~~

~~(f) Retaliatory action prohibited.— No employee may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employer's compensation, terms, conditions, location, duties or privileges of employment because the employee has reported, reports or is about to report suspected crimes against children.~~

~~(g) Reciprocity between law enforcement and county services agencies.— If the alleged perpetrator of a crime enumerated in subsection (d) is the parent of a child or resides with the child, the criminal law enforcement authority shall immediately notify the county agency responsible for investigating child abuse as defined by 23 Pa.C.S. § 6303. Pursuant to 23 Pa.C.S. § 6368(d) (relating to investigation of reports), reports received by a county agency that cannot be investigated in accordance~~

1 ~~with 23 Pa.C.S. Ch. 63 (relating to child protective services)~~
2 ~~shall immediately be forwarded to the appropriate criminal law~~
3 ~~enforcement authority.~~

4 ~~(h) Immunity from liability. A person enumerated in~~
5 ~~subsection (c) who files a report with the Department of Public~~
6 ~~Welfare in accordance with 23 Pa.C.S. § 6313 (relating to~~
7 ~~reporting procedure) shall have immunity from criminal liability~~
8 ~~that might otherwise result from a violation of this section.~~

9 ~~(i) Child Protective Services Law. The provisions of this~~
10 ~~section shall not be deemed to supersede or otherwise revoke any~~
11 ~~provisions of 23 Pa.C.S. Ch. 63.~~

12 ~~(j) Establishment of a toll free telephone number for~~
13 ~~reporting. The Pennsylvania State Police shall establish a~~
14 ~~Statewide toll free telephone number that all persons, whether~~
15 ~~mandated by this section or not, may use to report suspected~~
16 ~~crimes against children, regardless of the jurisdiction in which~~
17 ~~the suspected crime occurred.~~

18 ~~(k) Regulations. The Pennsylvania State Police shall adopt~~
19 ~~and promulgate regulations necessary to implement this section~~
20 ~~and shall make an annual recommendation to the General Assembly~~
21 ~~for appropriations to achieve such implementation.~~

22 ~~(l) Definitions. As used in this section, the following~~
23 ~~words and phrases shall have the meanings given to them in this~~
24 ~~subsection:~~

25 ~~"Criminal law enforcement authority." Any State or local~~
26 ~~government agency or organization having jurisdiction over~~
27 ~~criminal law enforcement; or an officer, agent or supervisory~~
28 ~~employee of that agency or organization.~~

29 ~~"Employee." A person who performs a service for wages or~~
30 ~~other remuneration under a contract of hire, written or oral,~~

1 ~~express or implied, for an employer.~~

2 ~~"Employer." An agency or organization whose employees are~~
3 ~~enumerated in subsection (c) as mandatory reporters. The term~~
4 ~~includes, but is not limited to, child care facilities, school~~
5 ~~districts and religious organizations.~~

6 ~~Section 2. The provisions of 18 Pa.C.S. § 5106.1 shall apply~~
7 ~~to any mandatory reporter who on or after the effective date of~~
8 ~~this act initially knows or has reasonable cause to suspect that~~
9 ~~a serious violent or sexual crime against a child has been~~
10 ~~committed.~~

11 ~~Section 3. This act shall take effect in 60 days.~~

12 SECTION 1. THE DEFINITION OF "SEXUAL ABUSE OR EXPLOITATION" ←
13 IN SECTION 6303(A) OF TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED
14 STATUTES IS AMENDED AND THE SECTION IS AMENDED BY ADDING A
15 DEFINITION TO READ:

16 § 6303. DEFINITIONS.

17 (A) GENERAL RULE.--THE FOLLOWING WORDS AND PHRASES WHEN USED
18 IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
19 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

20 * * *

21 ["SEXUAL ABUSE OR EXPLOITATION." THE EMPLOYMENT, USE,
22 PERSUASION, INDUCEMENT, ENTICEMENT OR COERCION OF ANY CHILD TO
23 ENGAGE IN OR ASSIST ANY OTHER PERSON TO ENGAGE IN ANY SEXUALLY
24 EXPLICIT CONDUCT OR ANY SIMULATION OF ANY SEXUALLY EXPLICIT
25 CONDUCT FOR THE PURPOSE OF PRODUCING ANY VISUAL DEPICTION,
26 INCLUDING PHOTOGRAPHING, VIDEOTAPING, COMPUTER DEPICTING OR
27 FILMING, OF ANY SEXUALLY EXPLICIT CONDUCT OR THE RAPE, SEXUAL
28 ASSAULT, INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, AGGRAVATED
29 INDECENT ASSAULT, MOLESTATION, INCEST, INDECENT EXPOSURE,
30 PROSTITUTION, STATUTORY SEXUAL ASSAULT OR OTHER FORM OF SEXUAL

1 EXPLOITATION OF CHILDREN.]

2 "SEXUAL ABUSE OR EXPLOITATION." ANY OF THE FOLLOWING:

3 (1) THE EMPLOYMENT, USE, PERSUASION, INDUCEMENT,
4 ENTICEMENT OR COERCION OF ANY CHILD TO ENGAGE IN OR ASSIST
5 ANY OTHER PERSON TO ENGAGE IN ANY SEXUALLY EXPLICIT CONDUCT.

6 (2) THE EMPLOYMENT, USE, PERSUASION, INDUCEMENT,
7 ENTICEMENT OR COERCION OF ANY CHILD TO ENGAGE IN OR ASSIST
8 ANY OTHER PERSON TO ENGAGE IN ANY SIMULATION OF ANY SEXUALLY
9 EXPLICIT CONDUCT FOR THE PURPOSE OF PRODUCING ANY VISUAL
10 DEPICTION, INCLUDING PHOTOGRAPHING, VIDEOTAPING, COMPUTER
11 DEPICTING OR FILMING OF ANY SEXUALLY EXPLICIT CONDUCT.

12 (3) ANY OF THE FOLLOWING OFFENSES COMMITTED AGAINST A
13 CHILD:

14 18 PA.C.S. § 3121 (RELATING TO RAPE).

15 18 PA.C.S. § 3122.1 (RELATING TO STATUTORY SEXUAL
16 ASSAULT).

17 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE
18 SEXUAL INTERCOURSE).

19 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL ASSAULT).

20 18 PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT
21 ASSAULT).

22 18 PA.C.S. § 3126 (RELATING TO INDECENT ASSAULT).

23 18 PA.C.S. § 3127 (RELATING TO INDECENT EXPOSURE).

24 18 PA.C.S. § 4302 (RELATING TO INCEST).

25 18 PA.C.S. § 5902 (RELATING TO PROSTITUTION AND
26 RELATED OFFENSES).

27 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION OF
28 CHILDREN).

29 * * *

30 SECTION 2. SECTIONS 6311, 6318, 6319 AND 6368(D) OF TITLE 23

1 ARE AMENDED TO READ:

2 § 6311. PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE.

3 (A) GENERAL RULE.--PERSONS WHO, IN THE COURSE OF THEIR
4 EMPLOYMENT, OCCUPATION OR PRACTICE OF THEIR PROFESSION, COME
5 INTO CONTACT WITH CHILDREN SHALL REPORT OR CAUSE A REPORT TO BE
6 MADE IN ACCORDANCE WITH SECTION 6313 (RELATING TO REPORTING
7 PROCEDURE) WHEN THEY HAVE REASONABLE CAUSE TO SUSPECT, ON THE
8 BASIS OF THEIR MEDICAL, PROFESSIONAL OR OTHER TRAINING AND
9 EXPERIENCE, THAT A CHILD [COMING BEFORE THEM IN THEIR
10 PROFESSIONAL OR OFFICIAL CAPACITY IS AN ABUSED CHILD.] UNDER THE
11 CARE, SUPERVISION, GUIDANCE OR TRAINING OF THE PERSON OR AN
12 AGENCY, INSTITUTION, ORGANIZATION OR OTHER ENTITY WITH WHICH THE
13 PERSON IS AFFILIATED IS A VICTIM OF CHILD ABUSE, INCLUDING CHILD
14 ABUSE BY A PERSON WHO IS NOT A PERPETRATOR WITHIN THE MEANING OF
15 SECTION 6303 (RELATING TO DEFINITIONS), SHALL REPORT OR CAUSE A
16 REPORT TO BE MADE IN ACCORDANCE WITH SECTION 6313. EXCEPT WITH
17 RESPECT TO CONFIDENTIAL COMMUNICATIONS MADE TO [AN ORDAINED] A
18 MEMBER OF THE CLERGY WHICH ARE PROTECTED UNDER 42 PA.C.S. § 5943
19 (RELATING TO CONFIDENTIAL COMMUNICATIONS TO CLERGYMEN), AND
20 EXCEPT WITH RESPECT TO CONFIDENTIAL COMMUNICATIONS MADE TO AN
21 ATTORNEY WHICH ARE PROTECTED BY 42 PA.C.S. § 5916 (RELATING TO
22 CONFIDENTIAL COMMUNICATIONS TO ATTORNEY) OR 5928 (RELATING TO
23 CONFIDENTIAL COMMUNICATIONS TO ATTORNEY), THE PRIVILEGED
24 COMMUNICATION BETWEEN ANY PROFESSIONAL PERSON REQUIRED TO REPORT
25 AND THE PATIENT OR CLIENT OF THAT PERSON SHALL NOT APPLY TO
26 SITUATIONS INVOLVING CHILD ABUSE AND SHALL NOT CONSTITUTE
27 GROUNDS FOR FAILURE TO REPORT AS REQUIRED BY THIS CHAPTER.

28 (B) ENUMERATION OF PERSONS REQUIRED TO REPORT.--PERSONS
29 REQUIRED TO REPORT UNDER SUBSECTION (A) INCLUDE, BUT ARE NOT
30 LIMITED TO, ANY LICENSED PHYSICIAN, OSTEOPATH, MEDICAL EXAMINER,

1 CORONER, FUNERAL DIRECTOR, DENTIST, OPTOMETRIST, CHIROPRACTOR,
2 PODIATRIST, INTERN, REGISTERED NURSE, LICENSED PRACTICAL NURSE,
3 HOSPITAL PERSONNEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE
4 OR TREATMENT OF PERSONS, CHRISTIAN SCIENCE PRACTITIONER, MEMBER
5 OF THE CLERGY, SCHOOL ADMINISTRATOR, SCHOOL TEACHER, SCHOOL
6 NURSE, SOCIAL SERVICES WORKER, DAY-CARE CENTER WORKER OR ANY
7 OTHER CHILD-CARE OR FOSTER-CARE WORKER, MENTAL HEALTH
8 PROFESSIONAL, PEACE OFFICER OR LAW ENFORCEMENT OFFICIAL.

9 (B.1) EXCEPTIONS TO MANDATED REPORTS.--PSYCHIATRISTS AND
10 PSYCHOLOGISTS WHO ARE OTHERWISE REQUIRED TO REPORT UNDER
11 SUBSECTIONS (A) AND (B) ARE NOT REQUIRED TO REPORT IF ANY OF THE
12 FOLLOWING APPLY:

13 (1) THE SUSPECTED VICTIM IS RECEIVING MENTAL HEALTH
14 TREATMENT FROM THE PSYCHIATRIST OR PSYCHOLOGIST, IS OVER 17
15 YEARS OF AGE AND DOES NOT CONSENT TO THE REPORT.

16 (2) THE PSYCHIATRIST OR PSYCHOLOGIST RECEIVES
17 INFORMATION FROM AN ADULT PATIENT OR CLIENT TO WHOM HE OR SHE
18 IS PROVIDING MENTAL HEALTH TREATMENT THAT ANOTHER PERSON IS
19 ABUSING THE CHILD.

20 (3) THE PSYCHIATRIST OR PSYCHOLOGIST RECEIVES
21 INFORMATION FROM A PATIENT TO WHOM HE OR SHE IS PROVIDING
22 MENTAL HEALTH TREATMENT THAT THE PATIENT HAS ABUSED A CHILD
23 IF, IN THE JUDGMENT OF THE PSYCHIATRIST OR THE PSYCHOLOGIST,
24 CURRENT CIRCUMSTANCES ARE SUCH THAT NEITHER THE CHILD NOR
25 OTHER REASONABLY IDENTIFIABLE CHILDREN ARE AT RISK OF FURTHER
26 ABUSE.

27 (4) THE PSYCHIATRIST OR PSYCHOLOGIST SUSPECTS THAT A
28 CHILD TO WHOM HE OR SHE IS PROVIDING MENTAL HEALTH TREATMENT
29 IS A VICTIM OF CHILD ABUSE WHERE THE ALLEGED ABUSER IS NOT A
30 PERPETRATOR AS DEFINED IN SECTION 6303(A). IN SUCH CASES THE

1 PSYCHIATRIST OR PSYCHOLOGIST MAY CHOOSE EITHER TO MAKE THE
2 REPORT OR TO NOTIFY THE CHILD'S PARENTS OR GUARDIAN OF THE
3 SUSPICIONS. THE TREATMENT PROVIDER MAY MAKE A REPORT
4 SUBSEQUENT TO NOTIFICATION OF THE CHILD'S PARENTS OR GUARDIAN
5 AT THE REQUEST OF THE PARENTS OR GUARDIAN OR IF IN THE
6 PROVIDER'S JUDGMENT IT MAY BE NECESSARY TO PROTECT THE CHILD
7 FROM FURTHER ABUSE. IF THE OTHERWISE REPORTABLE ABUSE
8 REPRESENTS CONSENSUAL SEXUAL BEHAVIOR BETWEEN A CHILD OVER 13
9 YEARS OF AGE BUT LESS THAN 16 YEARS OF AGE AND A PERSON LESS
10 THAN FIVE YEARS OLDER THAN THE CHILD, NO REPORT OR PARENTAL
11 NOTIFICATION IS REQUIRED.

12 THESE EXCEPTIONS SHALL ALSO APPLY TO ANY INDIVIDUAL WHO IS PART
13 OF THE PROFESSIONAL TEAM CARING FOR THE PATIENT UNDER THE
14 PSYCHIATRIST'S OR PSYCHOLOGIST'S SUPERVISION.

15 (C) STAFF MEMBERS OF INSTITUTIONS, ETC.--WHENEVER A PERSON
16 IS REQUIRED TO REPORT UNDER SUBSECTION (B) IN THE CAPACITY AS A
17 MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE
18 INSTITUTION, SCHOOL, FACILITY OR AGENCY, THAT PERSON SHALL
19 IMMEDIATELY NOTIFY THE PERSON IN CHARGE OF THE INSTITUTION,
20 SCHOOL, FACILITY OR AGENCY OR THE DESIGNATED AGENT OF THE PERSON
21 IN CHARGE. UPON NOTIFICATION, THE PERSON IN CHARGE OR THE
22 DESIGNATED AGENT, IF ANY, SHALL ASSUME THE RESPONSIBILITY AND
23 HAVE THE LEGAL OBLIGATION TO REPORT OR CAUSE A REPORT TO BE MADE
24 IN ACCORDANCE WITH SECTION 6313. THIS CHAPTER DOES NOT REQUIRE
25 MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION, SCHOOL, FACILITY
26 OR AGENCY.

27 (D) CIVIL ACTION FOR DISCRIMINATION AGAINST PERSON FILING
28 REPORT.--ANY PERSON WHO, UNDER THIS SECTION, IS REQUIRED TO
29 REPORT OR CAUSE A REPORT OF SUSPECTED CHILD ABUSE TO BE MADE AND
30 WHO, IN GOOD FAITH, MAKES OR CAUSES THE REPORT TO BE MADE AND,

1 AS A RESULT THEREOF, IS DISCHARGED FROM HIS EMPLOYMENT OR IN ANY
2 OTHER MANNER IS DISCRIMINATED AGAINST WITH RESPECT TO
3 COMPENSATION, HIRE, TENURE, TERMS, CONDITIONS OR PRIVILEGES OF
4 EMPLOYMENT, MAY COMMENCE AN ACTION IN THE COURT OF COMMON PLEAS
5 OF THE COUNTY IN WHICH THE ALLEGED UNLAWFUL DISCHARGE OR
6 DISCRIMINATION OCCURRED FOR APPROPRIATE RELIEF. IF THE COURT
7 FINDS THAT THE PERSON IS AN INDIVIDUAL WHO, UNDER THIS SECTION,
8 IS REQUIRED TO REPORT OR CAUSE A REPORT OF SUSPECTED CHILD ABUSE
9 TO BE MADE AND WHO, IN GOOD FAITH, MADE OR CAUSED TO BE MADE A
10 REPORT OF SUSPECTED CHILD ABUSE AND, AS A RESULT THEREOF, WAS
11 DISCHARGED OR DISCRIMINATED AGAINST WITH RESPECT TO
12 COMPENSATION, HIRE, TENURE, TERMS, CONDITIONS OR PRIVILEGES OF
13 EMPLOYMENT, IT MAY ISSUE AN ORDER GRANTING APPROPRIATE RELIEF,
14 INCLUDING, BUT NOT LIMITED TO, REINSTATEMENT WITH BACK PAY. THE
15 DEPARTMENT MAY INTERVENE IN ANY ACTION COMMENCED UNDER THIS
16 SUBSECTION.

17 § 6318. IMMUNITY FROM LIABILITY.

18 (A) GENERAL RULE.--A PERSON, HOSPITAL, INSTITUTION, SCHOOL,
19 FACILITY, AGENCY OR AGENCY EMPLOYEE THAT PARTICIPATES IN GOOD
20 FAITH IN THE MAKING OF A REPORT, WHETHER REQUIRED OR NOT,
21 COOPERATING WITH AN INVESTIGATION, TESTIFYING IN A PROCEEDING
22 ARISING OUT OF AN INSTANCE OF SUSPECTED CHILD ABUSE, THE TAKING
23 OF PHOTOGRAPHS OR THE REMOVAL OR KEEPING OF A CHILD PURSUANT TO
24 SECTION 6315 (RELATING TO TAKING CHILD INTO PROTECTIVE CUSTODY),
25 AND ANY OFFICIAL OR EMPLOYEE OF A COUNTY AGENCY WHO REFERS A
26 REPORT OF SUSPECTED ABUSE TO LAW ENFORCEMENT AUTHORITIES OR
27 PROVIDES SERVICES UNDER THIS CHAPTER, SHALL HAVE IMMUNITY FROM
28 CIVIL AND CRIMINAL LIABILITY THAT MIGHT OTHERWISE RESULT BY
29 REASON OF THOSE ACTIONS.

30 (B) PRESUMPTION OF GOOD FAITH.--FOR THE PURPOSE OF ANY CIVIL

1 OR CRIMINAL PROCEEDING, THE GOOD FAITH OF A PERSON REQUIRED TO
2 REPORT PURSUANT TO SECTION 6311 (RELATING TO PERSONS REQUIRED TO
3 REPORT SUSPECTED CHILD ABUSE) AND OF ANY PERSON REQUIRED TO MAKE
4 A REFERRAL TO LAW ENFORCEMENT OFFICERS UNDER THIS CHAPTER SHALL
5 BE PRESUMED.

6 § 6319. PENALTIES FOR FAILURE TO REPORT OR TO REFER.

7 A PERSON OR OFFICIAL REQUIRED BY THIS CHAPTER TO REPORT A
8 CASE OF SUSPECTED CHILD ABUSE OR TO MAKE A REFERRAL TO THE
9 APPROPRIATE AUTHORITIES WHO WILLFULLY FAILS TO DO SO COMMITS A
10 SUMMARY OFFENSE FOR THE FIRST VIOLATION AND A MISDEMEANOR OF THE
11 THIRD DEGREE FOR A SECOND OR SUBSEQUENT VIOLATION.

12 § 6368. INVESTIGATION OF REPORTS.

13 * * *

14 (D) REFERRAL FOR INVESTIGATION.--IF THE COMPLAINT OF
15 SUSPECTED ABUSE IS DETERMINED TO BE ONE WHICH CANNOT BE
16 INVESTIGATED UNDER THIS CHAPTER BECAUSE THE PERSON ACCUSED OF
17 THE ABUSE IS NOT A PERPETRATOR WITHIN THE MEANING OF SECTION
18 6303 (RELATING TO DEFINITIONS), BUT DOES SUGGEST THE NEED FOR
19 INVESTIGATION, THE COUNTY AGENCY SHALL IMMEDIATELY TRANSMIT THE
20 INFORMATION TO THE APPROPRIATE AUTHORITIES[.], INCLUDING THE
21 DISTRICT ATTORNEY, THE DISTRICT ATTORNEY'S DESIGNEE OR OTHER LAW
22 ENFORCEMENT OFFICIAL, IN ACCORDANCE WITH THE COUNTY PROTOCOLS
23 FOR INVESTIGATIVE TEAMS REQUIRED BY SECTION 6365(C) (RELATING TO
24 SERVICES FOR PREVENTION, INVESTIGATION AND TREATMENT OF CHILD
25 ABUSE).

26 SECTION 3. THE PROVISIONS OF THIS ACT SHALL APPLY TO ANY
27 PERSON WHO IS REQUIRED TO REPORT SUSPECTED CHILD ABUSE WHO ON OR
28 AFTER THE EFFECTIVE DATE OF THIS ACT INITIALLY KNOWS OR HAS
29 REASONABLE CAUSE TO SUSPECT THAT A CHILD IS A VICTIM OF CHILD
30 ABUSE.

1 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.